IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 133 (SS) of 2007

Mahipal Singh,
Son of late Sri Roop Chand,
R/o Raj Nagar Colony,
Near Railway Station, Jwalapur,
Hardwar. **…….Petitioner.**

Versus

1. State of Uttarakhand through its Secretary, Food and Civil Supplies Department, Civil Secretariat, Dehradun.
2. Commissioner, Food and Civil Supplies Department, Civil Secretariat, Dehradun.
3. Secretary Reorganization Committee, Civil Secretariat, Dehradun, Uttarakhand.
4. State of U.P. through its Secretary, Food and Civil Supplies Department, Civil Secretariat, Lucknow.
5. Secretary Reorganization Committee, Civil Secretariat, Lucknow, U.P.
6. Union of India through its Secretary, Ministry of Food and Civil Supplies, New Delhi.
7. Union of India through its Secretary, Department of Personnel, Public Grievance and Pension, New Delhi.

…….Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri Kamlesh Tiwari, holding brief of Sri Pankaj Miglani, learned counsel for the petitioner, Sri N.P. Shah, learned standing counsel for State of Uttarakhand on behalf of respondents no. 1 to 3, Smt. Beena Pandey, learned Standing Counsel for State of U.P. on behalf of respondent no. 4 and 5 and Smt. Anjali learned standing counsel for Union of India on behalf of respondent nos. 6 and 7.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. *to summon the complete record pertaining to the case.*
2. *to issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 16.01.2007 contained in Annexure No. 6 to the present writ petition whereby the petitioner has been relieved for State of U.P.*
3. *to issue the writ, order of direction in the nature of Mandamus directing respondents authorities to consider revision of allocation of the petitioner on the basis of mutual transfer.*
4. *to issue any other suitable order or direction, as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.*
5. *to award the costs of the petition to the petitioner.*

The stand of the petitioner is that he is permanent resident of State of Uttarakhand and prior to creation State of Uttarakhand he was working in the hill districts of State of U.P. Even after creation of State of Uttarakhand, petitioner is continuously working in the State of Uttarakhand.

The case of the petitioner is that petitioner had opted for State of Uttarakhand, however, in the final allocation list the name of the petitioner does not find place for State of Uttarakhand.

Learned counsel for the petitioner has submitted that posts of Marketing Inspector in Food and Civil Supplies Department in the State of Uttarakhand are vacant,

consequently, he has prayed to direct the respondents not to relieve for State of U.P.

By the impugned order dated 16.01.2007 passed by Commissioner, Food and Civil Supplies Department, Dehradun, petitioner has been relieved for State of U.P.

Learned counsel for the petitioner has relied on the judgment passed by Division Bench of this court in the case of Dr. I.P.Sharma Vs. State of Uttaranchal reported in 2006 (1) UC 324 wherein the court has held that petitioners should be given opportunity to make representation to the authority concerned and till then they should be allowed to continue in service in Government of Uttaranchal. In this case, petitioners were officiating Deputy Directors in Ayurveda and Unani Department of Government of Uttaranchal. They had opted for State of Uttaranchal but in the Final Allocation List their names did not find place for State of Uttaranchal.

In the present case, learned counsel for the petitioner has submitted that petitioner is permanent resident of State of Uttarakhand and still working in the State of Uttarakhand.

In the circumstances stated above, I deem it fit and proper to direct petitioner to make fresh representation to the competent authority against his allotment to State of U.P. within a period of two weeks from today and it is expected from the authority concerned (Secretary, Department of Personnel, Public Grievance and Pension, Union of India) that he shall decide the representation of the petitioner within a period of three weeks from the date of receipt of representation from the petitioner in this regard. Till 09.04.2007 or till the decision is taken by the authority

concerned on the petitioner's representation, whichever is earlier, petitioner should be allowed to continue in service in the Government of Uttarakhand, in case, petitioner has not already been relieved for State of U.P.

With this direction the writ petition as well as Civil Misc. application no. nil of 2007 is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

March 1, 2007
SKSharma